IN THE HIGH COURT OF UTTARTANCHAL
AT NAINITAL

Criminal Misc. Application No. 781/2005

1. Smt Saroj w/o Late Shri Pramod Giri
2. Prince @ Kaka s/oLate Shri Pramod Giri
3. Smt.Sheela w/o Satish Giri
4. Satish Giri s/o Shri Kelash

Applicants

Versus

1. State of Uttranchal
2. ADJ/Ivth FTC,Haridwar
3. JM Roorkee,District Haridwar
4. Vijay Vermas s/o Shri Ram Swaroop Verma
   R/o 208/1Matawala Bagh,Old Tehsil Roorkee
   Police Station,Gangnahar Roorkee
   District Haridwar
   respondents.

Hon'ble B.C. Kandpal, J

This petition under Section 482 Cr.P.C has been filed by the petitioners for quashing further proceedings in complaint case No. 773 of 224 Vijay Verma Vs Satish Giri and others under Sections 323,504,506,452,427,500 IPC pending in the court of Judicial Magistrate ,Roorkee.

Brief facts giving rise to this petition are that respondent No. 4 Vijay Verma filed a complaint on 17.6. 2004 against the petitioners before the court of Judicial Magistrate Roorkee, respondent No.3 with the allegations that on 16.6.2004 the complainant was assaulted by the petitioners.

The complainant i.e. respondent No.4 in support of his complaint examined himself under Section 200 Cr.P.C and also examined his two witnesses under Section 202 Cr.P.C.

The court below on the basis of material produced by respondent No.4 was pleased to summon the petitioners vide order dated 3.7.2004.

The petitioners preferred the revision against the said order before the court of Addl. District Judge /IVth FTC, Haridwar. The revisionl court was also pleased to dismiss the same vide order dated 15.9.2005.

Feeling aggrieved by the summoning order as well as the order of the revisional court the petitioners have approached this court by way of this petition.

I have heard the learned counsel for the petitioners, learned AGA and perused the record.

The learned counsel for the petitioners has argued that the petitioners have been falsely implicated in this case for the reasons that respondent No4 i.e. the complainant grabbed the property of the petitioners No.1 and 2. It is also submitted that the summoning order passed by the learned Judicial Magistrate is an abuse of process of law. It is also submitted that no prima facie case is made out against the petitioners.

Perusal of the record shows that respondent No.4 i.e the complainant has specifically averred in his complaint that the petitioners abused him and assaulted him with kicks and fists. It has been submitted by the complainant that the petitioners threatened the complainant and had broken the articles kept inside the shop of the complainant.

The statement of the witnesses of complainant also reveals that they have supported the case of the complainant.

I do not find any ground for interference in the summoning order passed by the learned Judicial magistrate. The learned Judicial magistrate has clearly observed that a prima facie case to proceed against the petitioners is made out.

The learned Magistrate has also taken into consideration the averments made in the complaint as well as statement of the witnesses and only thereafter, the learned Magistrate has reached to a conclusion that there is a prima facie case to proceed against the petitioners.

The contention raised by the learned counsel for the petitioners relates to the factual aspect of the matter which can be assessed and examined by the trial court during the course of trial .This court is not to embark upon an inquiry as to the reliability of evidence and sustainability of the accusation on a reasonable appreciation of evidence.

At this stage , I am not supposed to deliver any premature decision in a case where the evidence is yet to be assessed and examined by the trial court.

I do not find any abuse of process of court or any injustice caused to the petitioners.

The petition under Section 482 Cr.P.C is liable to be dismissed.

Accordingly the petition is dismissed.

(B.C. Kandpal,J.)

11.11.2005
nbj